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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,676	01/27/2004	Robert J. Wright	71699-010200	3039

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EXAMINER

RADA, ALEX P

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/766,676

Applicant(s)

WRIGHT, ROBERT J.

Examiner

Alex P. Rada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/26/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the program diagram of each method to claims 1-21 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grippo (US 6,017,032) in view of Congello, Jr. (US 6,296,569).

4. Grippo discloses the following:

Providing a first price category, the first price category indicates a first percentage of a prize that can be won with lottery tickets in the plurality of first price category lottery tickets having a winning lottery number (column 6, lines 12-30 and figure 1), providing a second price category (figure 1), the second price category indicates a second percentage of the prize that can be won with lottery tickets with lottery tickets in the plurality of second price category lottery tickets having the winning lottery number (column 6, lines 12-30 and figure 1), the prize includes at least a portion of the revenue provided from the plurality of the first price category lottery tickets and at least a portion of the revenue provided from the plurality of the second price category lottery tickets (column 7, lines 14-39 and 1 and 2), randomly selecting the winning lottery number (column 7, lines 1-13), providing a first price category of the first percentage of the prize if at least one of the lottery tickets in the plurality of first price percentage of the prize if at least one of the lottery tickets in the plurality of first price category lottery tickets has a winning number, the first category is the only price category having a winning ticket, in which the examiner interprets the winning prize to be the first price category with the first pool (column 6, lines 12-30 and figure 1), and

providing a second price category of the second percentage of the prize if at least one of the lottery tickets in the plurality of second price percentage of the prize if at least one of the lottery tickets in the plurality of second price category lottery tickets has a winning number, the second category is the only price category having a winning ticket, in which the examiner interprets the winning prize to be the second price category with the second pool (column 6, lines 12-30 and figure 1) as recited in claims 1, 11, 19, and 22.

The prize is a jackpot, in which the examiner interprets the jackpot pools to be an equivalent to the prize (column 6, lines 31-39 and figure 1) as recited in claims 2 and 13.

The prize is a fixed prize, in which the examiner interprets the amount wagered is the amount to be won as the fixed prize (column 6, lines 39-41) as recited in claims 3 and 14.

The first price category distribution is an even distribution (column 6, lines 51-67) as recited in claims 4 and 15.

The second price category distribution is an even distribution (column 6, lines 51-67) as recited in claims 5 and 16.

The inter-sharing formula is an even distribution (column 6, lines 51-67) as recited in claims 6 and 17.

The inter-sharing formula is a weighted distribution that provides a larger portion of the first percentage to winning tickets in the plurality of the second price category lottery tickets (column 5, lines 23-27) as recited in claims 7 and 18.

Providing a third price category (figure 1), the third price category indicates a third percentage of a prize that can be won with the lottery tickets in the plurality of third price category lottery tickets having a winning lottery number (column 6, lines 12-30 and figure 1) as recited in claim 8.

Providing a third price category of the third percentage of the prize if at least one of the lottery tickets in the plurality of third price percentage of the prize if at least one of the lottery tickets in the plurality of third price category lottery tickets has a winning number, the third category is the only price category having a winning ticket, in which the examiner interprets the winning prize to be the third price category with the third pool (column 6, lines 12-30 and figure 1) as recited in claims 9 and 24.

Grippo does not expressly disclose the following:

Providing a divided first price category of the first percentage of the prize, a divided second price category of the second percentage of the prize, and a distribution of the first percentage of the prize if at least one of the lottery tickets in the plurality of first price category lottery tickets has a winning number and if at least one of the lottery tickets in the plurality of second price category lottery tickets has a winning number, each of the winning tickets in the first price category lottery tickets shares the first percentage of the prize according to the divided first price category, each of the winning tickets in the second price category lottery tickets shares the second percentage of the prize according to the divided second price category, and each of the winning tickets in the second price category shares the first percentage of the prize with each of the winning tickets

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in the plurality of the first price category lottery tickets as recited in claims I, II-12, and 23.

Providing the divided first, second, and third price category of the first, second, and third percentage of the prize, and the distribution of the first percentage of the prize if at least one of the lottery tickets in the first, second, and third price category lottery ticket has a winning number, each of the winning tickets in the first, second, and third price category lottery tickets shares the first, second, and third percentage of the prize according to the divided first, second, and third price category formula as recited in claims 10 and 25.

Providing a guarantee of the payment of the first and second price category in exchange for a percentage of ticket sales from the first and second category price category lottery tickets and receiving the percentage of the ticket sales revenue as recited in claim 19.

The payment of the prize will be paid even if the ticket sales and the percentage of ticket sales are not greater in size than the payment as recited in claims 20 and 21.

Congello teaches the following;

Providing divided price categories, in which the examiner interprets the fractional amount to be the different price categories, and the shared percentage of the distribution of the different shared prize percentage values between the winning tickets, and a guarantee of the payment of the percentage of the ticket sales, in which the examiner interprets the calculation formulas of figure 3, to be an equivalent to applicants shared percentage of the distribution of the different

prizes percentage values between the winning tickets, and a guarantee of the payment of the percentage of the ticket sales (summary) as recited in claims 1, 10-12, 19-21, 23, and 25. By providing a shared percentage of the distribution of different shared prize percentage values between winning tickets, one of ordinary skill in the art would provide winning ticket holders to share in the overall prize based on the value of the wager.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Grippo to include divided price categories and the shared percentage of the distribution of the different shared prize percentage values between the winning tickets, and a guarantee of the payment of the percentage of the ticket sales as taught by Congello to provide winning ticket holders to share in the overall prize based on the value of there wager.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tulley et al (Pub. 2004/0116176), Ghela (Pub. 2003/0045339), and Keesee '620 all disclose different types of lottery gaming systems and method.

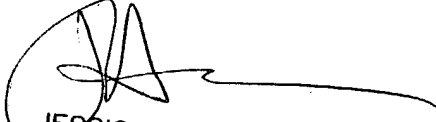
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 703-308-7135. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JESSICA HARRISON
PRIMARY EXAMINER